

**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
**Two Gateway Center**  
**Newark, NJ 07102**  
[www.bpu.state.nj.us](http://www.bpu.state.nj.us)

TELECOMMUNICATIONS

IN THE MATTER OF THE PETITION FOR AN ORDER )  
AUTHORIZING CLM TELCOM, LLC TO PROVIDE )  
FACILITIES-BASED LOCAL EXCHANGE AND ) ORDER  
REGIONAL TOLL TELECOMMUNICATIONS SERVICE )  
WITHIN THE STATE OF NEW JERSEY )

DOCKET NO. TE02060357

(SERVICE LIST ATTACHED)

BY THE BOARD:

Pursuant to N. J. S. A. 48:2-1 et seq. and Section 253 of the federal Telecommunications Act of 1996, 47 U.S.C. §151 et seq., and by letter dated June 18, 2002, CLM Telcom, LLC (Petitioner or CLM) filed a Petition with the New Jersey Board of Public Utilities (Board) requesting authority to provide facilities-based local exchange and regional toll telecommunications services throughout the State of New Jersey. Petitioner requests confidential treatment of the financial information in Exhibit 6 of its Petition.<sup>1</sup>

CLM Telcom, LLC is a Limited Liability Company organized under the laws of the Commonwealth of Virginia. Petitioner's principal place of business is located at 2334 Stockley Gardens, Suite 8, Norfolk, Virginia 23517.

Petitioner has submitted copies of its Certificate of Organization in the State of Virginia and a New Jersey Certificate of Authority to Operate as a Foreign Corporation. According to the Petition, CLM was formed to provide facilities-based local exchange and regional toll telecommunications services. Petitioner states that its Petition to provide local exchange intrastate telecommunications service is currently pending with the State of Pennsylvania and Virginia as listed on Exhibit 3 of its Petition. Petitioner states that it has not been denied authority to provide telecommunications service in any state.

In its Petition, Petitioner seeks authority to offer facilities-based business and residential local exchange and toll telecommunications services including basic local service, optional calling features, directory and operator assistance and listing services to customers throughout New Jersey. Petitioner intends to provide facilities-based local exchange and regional toll service using Unbundled Network Elements Platform including link, transport, signaling, switching and

---

<sup>1</sup> Pursuant to the Open Public Records Act, N.J.S.A. 47:1A-1 et seq., and by letter from the Secretary, Petitioner has been notified that the Board shall handle such requests for confidential treatment in accordance with the Board's proposed regulations at N.J.A.C. 14:1-12 et seq.

collection. The Petitioner plans to build, locate, acquire or expand facilities in New Jersey. The location and description of the facilities that will be used to provide various services is outlined in Exhibit 4 of its Petition. In its Petition, CLM has provided a narrative description of its customer services plan, customer application process, customer deposits, complaint procedure, termination policies and late payment charges. According to the Petition, all service will be available twenty-four (24) hours a day, seven (7) days a week.

Pursuant to the Docket # TT02060358, CLM has filed a Petition for a proposed tariff to provide resold and facilities-based local exchange and regional toll telecommunications service throughout the State of New Jersey. Petitioner understands that the said tariff is subject to Board approval. Petitioner has attached a copy of its proposed tariff in its Petition.

Petitioner requests a waiver of N.J.S.A. 48:3-7.8 which requires that its books and records be kept within the State of New Jersey. Petitioner requests permission to keep all books, records, documents and other writings incident to the conduct of Petitioner's business in the State of New Jersey at Petitioner's corporate offices in Norfolk, Virginia. Petitioner also states that, upon written notice from the Board, it will provide its books and records at such time and place within New Jersey as the Board may designate and will pay any reasonable expenses for examination of the records. Petitioner states that it maintains its books and records in conformity with the Uniform System of Accounts.

Petitioner asserts that approval of its Petition will further the public interest by expanding the availability of competitive telecommunications services in the State of New Jersey. Petitioner also asserts that approval of this Petition will provide New Jersey customers with access to new technologies and service choices and will permit customers to achieve increased efficiencies and cost savings.

With regard to its technical and managerial qualifications, CLM states that it possesses the technical capability and managerial qualifications to operate and manage its telecommunications operations in the State of New Jersey. Petitioner has submitted the professional biographies of its key personnel who, according to CLM, are well qualified to execute its business plans and have extensive managerial and technical experience in the telecommunications industry.

Petitioner states that it is a privately held corporation and maintains its financial information is confidential. Therefore, CLM has filed a motion for a protective order to preserve confidentiality of its financial information and requests that Petitioner be allowed to submit its financial information under seal.

## DISCUSSION

On February 8, 1996, the federal Telecommunications Act of 1996, P.L. 104-104, 110 Stat.56, codified in scattered sections of 47 U.S.C. §151 et. seq., was signed into law, removing barriers to competition by providing that:

[n]o State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service.

[47 U.S.C. §253(a)].

Therefore, Board approval of Petitioner's entry into the telecommunications marketplace is required, assuming Petitioner meets all other requirements, including, but not limited to, a demonstration of financial, technical and managerial integrity.

In considering this Petition, the Board recognizes its obligation not to prohibit entry into intrastate telecommunications markets. 47 U.S.C. §253(a). Approval is also in keeping with the New Jersey State Legislature's declaration that it is the policy of the State to provide diversity in the supply of telecommunications services and its findings that competition will "promote efficiency, reduce regulatory delay and foster productivity and innovation" and "produce a wider selection of services at competitive market-based prices." N.J.S.A. 48:2-21.16(a)(4); N.J.S.A. 48:2-21.16(b)(1) and (3).

Therefore, having reviewed CLM's Petition and the information supplied in support thereof, the Board FINDS that the Petitioner has demonstrated it possesses the requisite financial, technical and managerial resources which are necessary to provide telecommunications services in New Jersey. Accordingly, the Board HEREBY AUTHORIZES the Petitioner to provide facilities-based local exchange and regional toll telecommunications services in New Jersey subject to approval of its tariff and submission of financial statements. The Board also FINDS that in accordance with N. J. S. A. 48:2-59 and 48:2-60 and N. J. S. A. 52:27E-61 and 52:27E-62, the Petitioner is subject to an annual assessment by both the New Jersey Board of Public Utilities and the Division of Ratepayer Advocate, respectively. The Board notes that the Petitioner will not be able to provide telecommunications services until a tariff is approved by the Board and the required financial statements i.e. balance sheet, income statement, statement of change in cash flow and statement of change in equity, have been provided.

The Board HEREBY ORDERS that:

- 1) Petitioner file its tariff for Board approval.
- 2) Pursuant to N. J. S. A. 48:2-16.3, Petitioner shall file an annual report as of December 31 of each year, which is due on or before March 31 of the following year.
- 3) Pursuant to N. J. S. A. 48:2-59 and 48:2-60, Petitioner shall file a statement of gross intrastate revenues from operations form (AR3-1) as of December 31 of each year, which is due on or before June 1 of the following year.

On or before February 1<sup>st</sup> of each year, the Petitioner will receive from the Division of Telecommunications, an annual report package and a statement of gross intrastate revenues from operations form for the preceding calendar year. The purpose of these documents is to report the company's financial information and gross intrastate revenues from operations as of December 31 of each year. The annual report and a statement of gross intrastate revenues from operations form is due on or before March 31 and June 1 of the following year, respectively. If Petitioner does not receive these documents, it is the Petitioner's responsibility to obtain them from the Board. It is also the Petitioner's responsibility to ensure timely filing of these reports.

Regarding the Petitioner's request for waivers of the Board rules, the Board FINDS that the Petitioner has demonstrated good cause why the Board should grant relief from its requirements that the Petitioner keep its books and records within New Jersey. Therefore, subject to the

Petitioner's continuing responsibility to provide the Board books and records upon 48 hours notice, and in the manner requested, and to pay to the Board any reasonable expenses or charges incurred by the Board for any investigation or examination of these books and records, the Board APPROVES the Petitioner's request for keeping its books and records outside New Jersey.

DATED: 02/20/03

BOARD OF PUBLIC UTILITIES  
BY:

(SIGNED)

\_\_\_\_\_  
JEANNE M. FOX  
PRESIDENT

(SIGNED)

\_\_\_\_\_  
FREDERICK F. BUTLER  
COMMISSIONER

(SIGNED)

\_\_\_\_\_  
CAROL J. MURPHY  
COMMISSIONER

(SIGNED)

\_\_\_\_\_  
CONNIE O. HUGHES  
COMMISSIONER

(SIGNED)

\_\_\_\_\_  
JACK ALTER  
COMMISSIONER

ATTEST:

(SIGNED)  
KRISTI IZZO  
SECRETARY